
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

SARA KING-FLITTON,

Plaintiff,

vs.

**DAVIS SCHOOL DISTRICT and
BECKY BOUVANG,**

Defendants.

**MEMORANDUM DECISION
AND ORDER**

Case No. 1:14CV97DAK

Judge Dale A. Kimball

This matter is before the court on Defendant Becky Bouvang's Second Motion to Dismiss. The motion is fully briefed. The court concludes that a hearing would not significantly aid in its determination of the motion. Accordingly, the court issues the following Memorandum Decision and Order based on the briefs submitted by the parties.

The court previously denied a similar motion to dismiss filed by Bouvang and allowed Plaintiff thirty days to effect service. The district court may grant an extension of time to serve the complaint after the 120-day period. *Henderson v. United States*, 517 U.S. 654, 661 (1996). Plaintiff's response to Defendant's current motion mistakenly claims that the court granted an additional 120 days. Because the court found that Plaintiff had shown little evidence that there was good cause to extend the 120-day service period, the court granted thirty additional days instead of Plaintiff's requested 120 days. Therefore, Defendant's motion was timely filed after Plaintiff had failed to serve Bouvang within the extended time period.

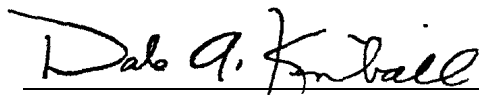
Plaintiff questions whether Bouvang is possibly evading service of process. However, as

with Defendant's counsel, the court was able to locate an address for Defendant with a simple, free internet search. The court cannot understand why Plaintiff cannot effect service when the information is readily available. Plaintiff's counsel has no grounds for attacking Defendant's counsel in the manner he did in his response. Plaintiff failed to follow the Order of this court and it is well within the court's discretion to dismiss the case against Bouvang without prejudice.

However, the court is again faced with the situation where a dismissal without prejudice would lead to Plaintiff filing a separate lawsuit against Bouvang and motion to consolidate. In its prior Order, the court explained that it believes such a result would waste judicial resources and serve little purpose. The court, therefore, will again grant Plaintiff a thirty-day extension from the date of this Order in which to effect service of Bouvang. The court will not extend the time any further. If Plaintiff has not filed proof of service within thirty-five days of the date of this Order, the court will sua sponte dismiss the case against Becky Bouvang without prejudice. Accordingly, Defendant's Second Motion to Dismiss is denied.

DATED this 22d day of July, 2015.

BY THE COURT:



DALE A. KIMBALL
United States District Judge